



833 EAST MICHIGAN STREET • SUITE 1800  
MILWAUKEE, WISCONSIN 53202-5615

TEL • 414.273.3500 FAX • 414.273.5198

WWW • GKLaw.COM

Direct: 414-287-9611  
jingrisa@gklaw.com

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**VIA ELECTRONIC FILING**

U. S. Magistrate Judge Stephen L. Crocker  
U.S. District Court, Western District of Wisconsin  
120 N. Henry St., Rm. 320  
Madison, WI 53703

Re: Edgewood High School of the Sacred Heart, Inc. v. City of Madison, et al.  
Case No. 3:21-cv-0118-wmc (W.D.Wis.)  
Communication on Adjourned Trial Date

Dear Judge Crocker:

I submit this letter on behalf of all parties. The parties have reviewed the slate of available trial dates offered by the Court and have conferred. While the parties have narrowed the choices to November 28 and December 12, 2022, they have not otherwise been able to agree between those two dates.

Plaintiff Edgewood High School of the Sacred Heart, Inc. The Plaintiff requests the December 12 date for the start of trial. Edgewood High School does not believe that two weeks will be necessary for trial, and that any trial will be likely no more than five to seven days. Inconvenience related to the Christmas holiday is therefore speculative and can be minimized, if not avoided entirely, by the effective presentation of evidence and flexibility in the reordering of witnesses. Conversely, the November 28 date, with office closures for Thanksgiving on November 24 and 25 and associated staff, witness and attorney travel will pose burden and inconvenience in the shortened week for preparation before trial. Plaintiff believes that there will be fewer than ten to twelve (10-12) witnesses, particularly after motions in limine are decided. While the Defendants have claimed a conflict for one of the City's witnesses, Mr. Parks, on December 21, the Plaintiff is confident that this single cited witness conflict can be accommodated in the unlikely event the trial goes to December 21. Given the absence of actual immovable conflicts for the parties, the plaintiff believes trial the week after the Thanksgiving holiday is more burdensome than trial two weeks before the Christmas holiday.

Defendants City of Madison, et al. Defendants favor the November 28 date over the December 12 date for several reasons. First, as defendants understand, that date works for every witness. The objection plaintiff has raised to the date is that it interferes with trial preparation because counsel's office is closed for Thanksgiving and the Friday after Thanksgiving. The inconvenience, while unfortunate for both sides, is manageable and allows the full 10 days for trial if such is needed. Currently, 15 individuals have been deposed and others have put in

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declarations on summary judgment that have not been deposed. Further, it is possible that defendants will need to call several residents of Edgewood's neighborhood to testify. Defendants intend to seek pretrial guidance from the court on the need to call those witnesses but do not know in advance of how the court will rule. Assuming that such witnesses will need to be called, the number of witnesses is likely to be between 15-25.

Defendants have conflicts with the December 12 trial date to the extent that the trial goes longer than 5 days. If the trial goes 10 days, trial would continue through December 23. Timothy Parks is a key witness and is scheduled to be out of town on vacation beginning December 21. Further, winter break for the area schools begins the week of December 19. Assistant City Attorney Kate Smith, who is the City's representative and intends to be at trial, has children in the schools who are impacted by the winter break and will have childcare issues if this date is chosen. Defendants also believe that jurors will be impacted by trial continuing into the week of December 19.

The parties respectfully inquire whether it is possible to begin trial on December 5. If such is not feasible, the parties request that the Court select either November 28 or December 12, or in the alternative provide a new slate of available dates starting in February, 2023.

Respectfully,

GODFREY & KAHN, S.C.

*Electronically signed by Jonathan R. Ingrisano*

Jonathan R. Ingrisano

cc: All Counsel of Record via ECF